

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TEAM RUBICON GLOBAL, LTD., a Delaware Corporation

Plaintiff,

V.

TEAM RUBICON, INC., a Minnesota Corporation

Defendant,

Civ. No. 20-cv-2537 (LTS) (KNF)

TEAM RUBICON, INC., a Minnesota Corporation

Counterclaim Plaintiff,

V.

TEAM RUBICON GLOBAL, LTD., a Delaware Corporation

Counterclaim Defendant.

DECLARATION OF ADAM MILLER

ADAM MILLER, pursuant to 28 U.S.C. § 1746 declares under penalty of perjury as follows:

1. I am over the age of 18 years old, and reside in Los Angeles, California. I serve as the Chairman of the Board of Directors for Defendant and Counterclaim Plaintiff Team Rubicon, Inc. (“Team Rubicon”), (the “Board”). I received my Juris Doctor degree from UCLA School of Law and a Master’s Degree in Business Administration from the Anderson School of Business. In addition to my position as Chairman, I currently serve as the CEO of Cornerstone OnDemand. I submit this declaration in support of Team Rubicon’s Motion for Preliminary Injunction. I have personal knowledge of the facts set forth in this declaration and am competent to testify to such facts if called as a witness.

2. I joined Team Rubicon's Board of Directors in 2013. I became Chairman of the Board in 2014.

3. In my role as Chairman of the Board, I have a variety of responsibilities, which include but are not limited to, addressing governance issues, setting executive compensation, supporting strategic planning operation guidance, executive coaching, and coordinating brand outreach and management. My major role is to represent Team Rubicon in its interactions among the Team Rubicon Network, which includes Team Rubicon, TRG, and each of TRG's sublicensees, known as the TR-X's, with X used as a delineator for country affiliation.

4. The Team Rubicon brand is well-known within the United States as a brand that provides world class humanitarian aid in times of crisis by leveraging the unique skills of Military Veterans. This reputation and goodwill is embodied in Team Rubicon's trademarks, which have been registered with the United States Patent and Trademark Office in 2016, generating U.S. Registration Nos. 5,048,836 and 5,048,837 (together, the "TR Marks."). The TR Marks have also been registered in jurisdictions outside of the United States, including in the United Kingdom, Canada, Australia, Norway, New Zealand, Turkey, and the Philippines.

A. TRG's Failure To Protect The TR Marks

5. In August 2019, after a team-building and leadership conference hosted by Team Rubicon for the broader Team Rubicon Network, credible allegations of sexual and other misconduct were levied against two CEOs of two of TRG's sublicensees, Team Rubicon United Kingdom ("TR-UK") and Team Rubicon Australia ("TR-AUS"). In particular, the day after the conference ended, the CEO of TR-CAN, Bryan Riddell and TR-CAN Board member, George Young, informed me and other Team Rubicon representatives that one of its volunteers was subjected to, among other things, sexual advances, comments of a sexual nature, and the

propositioning of sex by the CEOs of TR-AUS and TR-UK. TR-CAN expressed that the victim was clearly and understandably distraught.

6. TR-CAN requested that Team Rubicon perform a full investigation of the allegations. Team Rubicon agreed, and appointed Team Rubicon's President and Chief Operating Officer, a former Commanding Officer in the U.S. Navy with a background in conducting military investigations, to oversee it. The investigation included the review of email correspondence, interviews, and included participation from 17 different witnesses.

7. As a result of the investigation, it was determined that (i) the allegations against both CEOs were credible, (ii) that the conduct identified during the investigation warranted immediate termination of the individuals involved, and (iii) that each of TRG and the TR-Xs should take certain other remedial steps to protect the TR Marks and the Team Rubicon brand. Team Rubicon believed these actions were proper and good governance, and also would protect Team Rubicon's brand from further harm. Indeed, we are very sensitive to allegations of misconduct, both for the safety of our employees and volunteers, and because allowing such conduct to go unchecked creates a tone from the top that signals that our organization is one that condones harassment. Such an image can permeate an organization's culture, make it harder to fundraise, and ultimately impact the credibility and good will of the brand.

8. In September and October 2019, Team Rubicon wrote to TRG in order to have TRG remediate the issues raised by Team Rubicon, including the termination of the CEOs of both TR-UK and TR-AUS, as well as a re-training of all staff within the Team Rubicon Network. Team Rubicon addressed these directives to TRG first and foremost because, unlike Team Rubicon, whose mandate is providing on-the-ground disaster relief to affected communities,

TRG's primary purpose is to license the Team Rubicon brand and ensure its protection internationally.

9. Despite Team Rubicon's straightforward demands, TRG refused to implement the steps necessary to remedy the issues identified during Team Rubicon's investigation. This intentional failure to act was concerning, as it represented a complete abdication of TRG's contractual responsibility to protect the goodwill associated with the TR Marks.

10. I am aware that TRG claims that the events in August 2019 were "private" and therefore they cannot tarnish the good will of a company. I am shocked by this statement, as it shows, among other things, a complete lack of understanding of, and sensitivity to, issues surrounding sexual harassment in the workplace. As an initial matter, conduct that occurs during a business event, in the presence of several witnesses, is not "private" conduct; rather, it is inappropriate conduct engaged in a business setting. Our corporate sponsors agree. When donors have found out about these allegations, they have had extremely negative reactions, and some have expressed a desire to avoid donating until after the situation is resolved.

11. Furthermore, as referenced above, failure to swiftly address issues of harassment in the workplace undermine corporate culture and tarnish brand image for years to come. Indeed, taking no action once leadership becomes aware of credible and concerning allegations places the organization in serious jeopardy of being accused of sweeping the incident "under the rug" when it ultimately is discovered days, months, or years later. This is not the type of organization that Team Rubicon wants to run or have affiliated with its brand and trademarks.

12. There was also a tangible effect on Team Rubicon's Board and executive leadership, which had to divert time, energy, and resources away from Team Rubicon's

charitable mission in order to spend significant focus on crisis management. This diversion caused significant harm to the Team Rubicon brand.

B. TRG’S Ongoing Misuse Of The TR Marks

13. In light of the existential risks created by TRG in failing to act to protect the Team Rubicon brand, in December 2019, Team Rubicon validly terminated its Master Trademark License Agreement (“MTLA”) with TRG, under which TRG previously licensed the TR Marks for use exclusively outside of the United States. After that time, any rights TRG had to use or license the TR Marks terminated.

14. Since then, however, TRG has continued to use and sublicense the TR Marks without authorization. This non-licensed use of the TR Mark has caused significant harm to Team Rubicon’s business. From a fundraising perspective, TRG has created confusion between TRG and Team Rubicon. TRG’s strategy has been to capitalize on its name, “Team Rubicon Global” (emphasizing the term “GLOBAL”) to imply that TRG, and not Team Rubicon, is the lead organization and to take credit for the work of Team Rubicon. Similarly, on its website, social media, and marketing communications, TRG lists Team Rubicon as a country affiliate, similar to the other TR-Xs, and even designates Team Rubicon as “TR-USA.” This improper use of the TR Marks has caused substantial harm to Team Rubicon’s sponsorships, grants, fundraising efforts, and corporate partnerships, all of which are sources of funding for Team Rubicon’s disaster relief missions.

15. For example, on January 13, 2020, TRG posted a photo with a grayscale version of Team Rubicon’s well-known logo next to an image of “10 YEARS” on its Twitter page. The caption of the tweet reads “Ten years ago a small group sprang into action, and a mission was born. Over 100K strong, in five countries, serving around the world, serving around the world.” This tweet confusingly conflates TRG to Team Rubicon, which was founded in January 2010.

TRG is a separate entity and was formed in 2014. The implication to the public reading the tweet is that TRG was founded ten years ago and operates as the real Team Rubicon. Attached hereto as Exhibit A is a true and correct copy of TRG's January 13, 2020 Twitter post.

16. On March 28, 2020, TRG "re-tweeted" (re-posted) one of Team Rubicon's posts that called for the signing of a petition to ask Congress to begin credentialing military veterans from medical fields to aid in the fight against COVID-19 on its Twitter page. TRG added a caption that called it a "worthy initiative from Team Rubicon USA," implying to TRG's audience that the entities are affiliated and working together on the initiative. Further, TRG's use of the label "Team Rubicon USA" falsely implies that Team Rubicon is merely a country-specific affiliate of TRG. Attached hereto as Exhibit B is a true and correct copy of TRG's March 28, 2020 Twitter post.

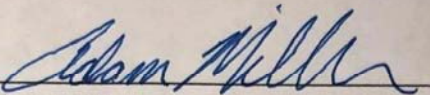
17. On April 14, 2020, TRG distributed a mass-email stating that Team Rubicon was a "member organization" in TRG's "global network." The email further highlighted work done by Team Rubicon and TR-CAN, which is no longer affiliated with TRG. This email was sent to Team Rubicon's potential donors and business partners and solicited donations. The implication that Team Rubicon is a country unit or "member organization" to TRG's "global network" is demonstrably incorrect and causes irreparable damage to Team Rubicon, as it siphoned away fundraising needed for Team Rubicon's actual disaster response work, including the rapid response to the ongoing COVID-19 pandemic. Attached hereto as Exhibit C is a true and correct copy of TRG's April 14, 2020 mass email.

18. In another example, on April 15, 2020, a Facebook user started a donation campaign for Team Rubicon. The user provided background information regarding Team Rubicon in the form of news articles and the third-party charity monitor,

www.charitynavigator.org, and even provided a link to Team Rubicon's website, www.teamrubiconusa.org. However, the user's post was soliciting funds for TRG—the user was confused and believed TRG and Team Rubicon were the same entity. Attached hereto as Exhibit D is a true and correct copy of the April 15, 2020 Facebook post.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24 day of April 2020 in Los Angeles.


Adam Miller
Team Rubicon, Inc.